



State of Delaware
Commission on Forensic Science
(CFS)

Minutes - 4/11/16

10:00 a.m. - 12:00 p.m.
Division of Forensic Science
1st Floor Conference Room
200 South Adams Street
Wilmington, DE 19801

1. Welcome and Call to Order

- The meeting was called to order by Secretary Rita Landgraf. She provided a brief welcome and thanked everyone for coming this morning. Secretary Landgraf then asked those present to please announce themselves because today we are initiating the recommended recording of the minutes. Those in attendance were as follows:

Voting Commission Members

Secretary Rita Landgraf
Chief Randall L. Hughes
Major John Evans
DAG Sean Lugg
Lisa Schwind, RN, Esquire
Anita Symonds, RN
Clytrice L. Watson, Ph.D.

Department of Health & Social Services - **Chair**
Delaware Police Chiefs' Council - **Vice-Chair**
Delaware State Troopers Association
Department of Justice-Deputy Attorney General
Public Defender's Office-Forensic Attorney
Christiana Care
Associate Dean – Delaware State University

Non-voting Commission Support

Commission's Legal Support

DAG Lisa Morris

Department of Justice-Deputy Attorney General

Additional Non-voting Attendees

Kimberly Chandler
Johna Esposito
Jill Fredel
Daniel Maas
Sgt./Det. Tom Tyndall
Rebecca Walker
Michael Wolf

DSHS – Deputy Principal Assistant
DFS - Toxicology Lab Manager II
DHSS - Communications Director
Philadelphia/Camden HIDTA-Public Health Analyst
Georgetown Police Department
DFS - Chief Operating Officer
DFS - Director

Council Support

Patricia McIlvaine

Division of Forensic Science

Absent Voting Commission Members

Senator Robert Marshall

Delaware State Senate

Representative John Mitchell

Delaware House of Representatives

Secretary James N. Mosley

Department of Safety & Homeland Security

2. Approval of the Minutes

- Secretary Landgraf said today's agenda, as well as the minutes of our 2/15/16 meeting, are in front of Commission members and asked everyone to take a few moments to review. She said that when everyone is ready, she will entertain a motion to approve. Chief Hughes said he had the opportunity to review the minutes prior to the meeting and that he would make a motion to approve. Secretary Landgraf asked if there was a second; Major Evans seconded the motion. She then asked if there were any comments or questions, if anyone was opposed or wanted to abstain. Hearing no objections, all voting members in attendance unanimously voted to approve the minutes of the February 15, 2016 meeting.

3. 2015 Annual Report

- Secretary Landgraf asked Director Wolf for an update on the 2015 Annual Report. Director Wolf recalled that at our last meeting, a draft copy of the report was provided to Commission members for review. The two recommended changes, as a result of that review, have been made: 1) the Executive Summary was moved to the front part of the report, and 2) the report from the Strategic Planning Advisory Committee was consolidated into the body of the annual report. However, said Director Wolf, upon final review of the draft report, it was noted that there was a misrepresentation in the crime analysis stating that the total number of drug cases had decreased. Actually, he said, that is not accurate. In fact, the number of drug cases increased over a four year period and, across the board, all crimes went up for at least the last two years, except for property crimes. Director Wolf said that these changes were incorporated in the report.
- Also, Director Wolf said, two additions were made to the report at the request of Secretary Mosley: 1) the report includes an analysis justifying our request for

additional resources for the Forensic Chemistry Unit and 2) an analysis justifying the request of additional instrumentation (3 GC-MS and 2 FTIR) for that unit.

- Director Wolf informed Commission members that 2 or 3 months ago, he was asked by the DOJ to attend a judges' meeting. During the course of the meeting he attended, there were a lot of questions regarding turnaround times, productivity, and issues with the laboratory. In response to those questions and concerns expressed by the bench, the judges and DOJ were provided (through DAG Joe Grubb) a copy of our report. It is anticipated that at the next meeting (4/13/16), we will probably get into additional details regarding staffing and needs of our laboratory just to insure we are delivering cases on a timely basis.
- Director Wolf shared that after the JFC meeting, several legislators had asked a number of questions concerning the lab and wanted to meet here with us. A meeting was subsequently held at this facility on 3/14/16. Invitations were extended to John Mitchell, Michael Ramone, William Carson, J.J. Johnson, Dave Lawson and Bruce Ennis. At that meeting, said Director Wolf, we discussed the needs and status of our laboratory and questions were asked about our requirement for additional space. Director Wolf said that everyone was very supportive.

4. DFS Update

- ASCLD Accreditation: As far as our accreditation, said Director Wolf, we indicated at the last Commission meeting there were six findings by the ASCLD audit team which called for remediation. Director Wolf stated he has since learned there were actually seven. The two findings in Toxicology were consolidated (which Johna Esposito will speak to later in this meeting); that is why it was first reported there were six. He said that Johna put our remediation response together and sent it out last week (4/6/16). The ASCLD board is scheduled to meet on May 27th to assess our responses and, hopefully, give us approval for our accreditation (keeping in mind that June 15th is when our current ANAB accreditation expires).
- Medical Examiner:
 - As reported at our last meeting, the pathologist in our Sussex County office retired in December. We posted two positions; one fulltime and one casual/seasonal, to

fill a position here and in Sussex County. We interviewed three board-certified pathologists and two were selected for hire. Director Wolf noted that the one individual for the fulltime position here is a child neurologist, very qualified, and an offer was extended; we are still awaiting a response. We will also make an offer to the other individual for the casual/seasonal position in Sussex County. Director Wolf said that having both pathologists with board certification is a good thing for the State of Delaware.

- Director Wolf noted that the unit's N.A.M.E. (National Association of Medical Examiners) accreditation will expire January, 2019. He fears that if we have not moved the unit out of this facility by that time, in all probability, we will not be re-accredited.
- We now have eight trucks designated to pick up the deceased throughout Delaware and four new replacements coming on board. The trucks we use currently have been refurbished with bedding and hardware. Director Wolf recognized Rebecca Walker for her hard work in obtaining the new stretchers, along with covers. The previous ones were old - more than antiquated - and falling apart.
- Director Wolf also conveyed that all ME report requests are up-to-date and have been sent out in a timely fashion.
- Toxicology/DUI:
 - Director Wolf reported that productivity in Toxicology/DUI has increased over the first quarter, as well as an increase in the number of samples processed. He also noted that submissions are somewhat consistent throughout the first quarter.
 - We had a senior chemist opt to leave us and take a position in Philadelphia last month and that open position will be posted. Once again, said Director Wolf, it speaks to our ability to draw and to hire good quality people. This person was a great employee.
 - The Tox/DUI Unit is scheduled for ABFT (American Board of Forensic Toxicology) accreditation on June 14th and 15th. Director Wolf recalled that it was one of the recommendations from the Andrews International report. Chief Hughes exclaimed that this is great news. He knows that Jessica Smith, Johna Esposito and the entire

group upstairs, worked very hard. Chief Hughes said they took the Andrews recommendation and ran with it, and that is to be celebrated. Director Wolf agreed it is great for the lab and great for the State of Delaware.

- DNA:

- Director Wolf reported that productivity is fairly consistent over the last month. There was a spike of cases in February; driven in large part by the increase of case submissions in DNA and, as a result of that, there is a slight backlog of cases this past month.
- We also have good news from DNA; the 2 DNA analysts (Niyrai Hall and Lesley Merkle) are about ready to be qualified and will attend moot court in May.

- Controlled Substances:

- Director Wolf said CS also has great news to report. Although the lab is operating with only four chemists, they have processed the most cases since the CS lab was closed down in March, 2014.
- Director Wolf stated that CS has one new chemist ready to complete moot court training on Friday, 4/15/16. He also announced that we have two new chemists who started last Monday, 4/4, and their 4-month training program has begun.
- Director Wolf reported that the case backlog has dropped significantly. There were 600 backlogged cases in December. With the support of OMB and the Governor's office, said Director Wolf, we were appropriated one-half million dollars for outsourcing (we are very carefully managing that) and between the increase in productivity and the outsourcing, that backlog has been reduced to 230 cases.
- Director Wolf informed the Commission that the lab has also just acquired new instrumentation, an FTIR (Fourier Transform Infrared Spectrometer). He said he was advised that we are the only the lab on the East coast that did not have this device for performing presumptive or preliminary tests. This device alleviates conducting the antiquated system of color testing and allows an electronic upload of data that will expedite the preliminary processing of drug evidence. Before we can begin using the device, said Director Wolf, the instrument has to be validated and the chemists trained. This training and validation have to be scheduled.

- Director Wolf stated with all that said, while we are getting our arms around increasing productivity, and it is getting better in the drug arena, we still have not taken on the New Castle County PD which accounts for about 25% of drug cases in the state. We do not have the wherewithal to ensure that we can analyze CCP cases on a timely basis, and we are not in a position, on a regular basis, to insure that we have a 60-day turnaround time that the DOJ and bench both need and want. He said these are the three criteria we have not been able to yet address. We will continue to manage the backlog of cases vigorously, which is very costly for the state to pay for outsourcing, but eventually, unless we get the resources we have requested, we are going to: a) need more money for outsourcing; or b) not be able to deliver cases on a timely basis.
- CARs: Director Wolf said that Lisa Morris and Johna Esposito will address CARs (Corrective Action Reports) later in this meeting.
 - Statewide Bar Coding: Director Wolf recalled that we talked previously about implementing a statewide bar coding system that is still is being considered and evaluated. However, he said, in the interim, we think it is important we have our own barcode system to electronically memorialize chain of custody evidence internally throughout the laboratory. We are working with DTI, have held meetings this past week and have scheduled a couple more this week. The system is being designed as we speak. We are planning on one that will be able to integrate with a statewide system, should – and hopefully, will - happen in the future.
 - Director Wolf reported that Rebecca Walker has attended a number of statewide initiatives over the past months: 1) the FAA Disaster Drill at the New Castle Airport; 2) planning and coordination for the DFS Continuity of Operations Planning, which will provide continuity of services should we be unable to perform our work here; and 3) attending legislative meetings regarding the Child Death/Near Death Review.
 - Directed Wolf also said that Commission members may have noticed construction vehicles outside. We are in the process of putting in a new HVAC system. During this installation, there will be some disruption in the labs, especially in TOX, and the work will be ongoing the next month or month-and-a-half.

- In closing, said Director Wolf, we ask for your support. In this annual report, we asked for resources, we asked for instrumentation and it is important that we are able to deliver for the DOJ and for the citizens of Delaware, a good product, on a timely basis, and we need your support.
- Secretary Landgraf thanked Director Wolf for his presentation and said she would like to say a few things first, and then open up the meeting for questions from Vice-Chair Hughes and then to everyone. Secretary Landgraf recalled that at our last meeting, we talked about when the report was finalized, we would have a briefing with Secretary Mosley and Governor Markell. Director Wolf said that with the inclusion of the recommendations from the Commission, the request from Secretary Mosley for analysis justifying additional resources and instrumentation, and the update to the crime analysis numbers, the 2015 Annual Report has been finalized unless there is something else to be added. Chief Hughes asked the whereabouts of the finalized copy of the report because Commission members have not seen it. Secretary Landgraf said, yes, the finalized version of the report should be shared with the Commission prior to her and Secretary Mosley presenting it to the Governor.
- Director Wolf then provided copies of the finalized report for the Commission's review. Secretary Landgraf asked Commission members to please review this finalized report and get back to her by Friday, 4/15/16, with any comments/concerns. Secretary Landgraf said she wants to make sure that Commission members are comfortable and are in agreement that it is ready to be presented to the Governor. Secretary Landgraf indicated that after the Commission's review, she will arrange to get on Secretary Mosley's and Governor Markell's calendars. Secretary Landgraf then asked if Chief Hughes or anyone else had any comments.
- Chief Hughes noted that Director Wolf has covered a lot of information in a short amount of time today. He asked if he would repeat who from the legislature attended the meeting here. Director Wolf replied that Bill Carson, James Johnson, Joe Miro, and Michael Ramone attended that meeting. Secretary Landgraf pointed out that none of these people sit on the commission. Director Wolf noted that they did reach out to Representative Mitchell and Senator Marshall and they indicated they would like to meet with us at a later date.

- Secretary Landgraf suggested that she and Chief Hughes reach out to both Representative Mitchell and Senator Marshall, along with Senator Ennis, and set up an appointment to find out where they would like to be relative to this work. She said they were instrumental in getting this commission established, so it might be good for us to have that conversation. Chief Hughes agreed and said he thinks it best we meet with them as Commission members, rather than the Division of Forensic Science, the Commission voices need to be heard which would include concerns from the defense side, the criminal side, the judicial side, etc.
- Secretary Landgraf said that with all the resource issues which stand before the Division, the legislative branch needs to be fully aware from that perspective and since they have had difficulty in attending the meetings, we would like to get a better understanding of their situation. Secretary Landgraf asked DAG Lisa Morris for her view, from a legal standpoint, if members would be allowed to call in. DAG Lisa Morris responded that if voting members call in, they would not be able to vote because under FOIA, it would not constitute a quorum. We have to provide the public an opportunity to see and hear Commission members. DAG Morris added that if we set up video conferencing, say, in Dover and the public is notified in advance and invited to attend, then any vote cast by a voting member would be viable. Secretary Landgraf said she thinks the Commission meetings were originally established in the mornings, on a day that was not a legislative day and that the meeting schedule was set up to be as attractive as possible to keep them engaged. Secretary Landgraf said she and Chief Hughes will see if we can get a better understanding of their position and also provide them with our insights relative to this situation.
- COO Rebecca Walker noted for the record that invitations for the 3/14 meeting were also extended to representatives from Kent and Sussex counties. The House Speaker was holding a meeting at that time and that is why Representative Mitchell and Senator Marshall, as well as others, could not make it. We specifically chose people from Bond and JFC to tour and walk through our facility so that they could see from a first-hand perspective, what we are looking for in resources and building requirements.

- Secretary Landgraf said that it would be great to then have the Senator and the Representative be the liaisons moving forward. She said she is feeling a sense of urgency, now more than ever, since this is the last year of the Markell administration. There will be a shift relative to the administrative branch and the leadership of the cabinet, so we need that level of continuity from those perspectives. Secretary Landgraf said she is glad that DFS outreached to those individuals for the March meeting, however, her hope would be that we would have representatives from the Senate and the House in a way that they could be ongoing liaison with that branch, especially for the Public Safety committees.
- Concerning the pathologist offers being made, Chief Hughes asked if there were any more information on the where they are to be located. COO Rebecca Walker responded that the Casual/Seasonal person would be dedicated in large part to the Sussex County location 3 days per week and that the Wilmington fulltime applicant is coming straight out of fellowship. Lisa Schwind asked if she is board certified and COO Walker responded yes, both prospective pathologists are board certified. She said that we are still waiting for their response to the job offers.
- Chief Hughes asked Director Wolf the length of time it will take for the FTIR validation process. Director Wolf responded that it should not take a lot of time; we have three employees going for training at the end of this month and once they get back and train on the instrumentation, it will not take long. Chief Hughes asked if this were a presumptive test and Director Wolf replied, yes. However, Director Wolf said, it actually is a confirmatory test, and in certain respects, it is on the same par and same class level as GC-MS, so it's a "double bang" in that regard. It is performing the preliminary responsibilities in concert with GC-MS, just like most other laboratories throughout the northeast. Director Wolf said he hopes this answers Chief Hughes' question. Chief Hughes asked Lisa Schwind and DAG Lugg if when a police officer goes into court to testify and then the chemists, do they testify to the presumptive test that they do all along, and then to the confirmatory test, or do they just go to the confirmatory test and say that is what the items is. DAG Sean Lugg said that at trial, it generally will be the confirmatory, not the

presumptive, test results that are used. He continued that although not pertaining to controlled substances, in some areas of chemistry, you can't talk about the presumptive tests. DAG Lugg then stated he thinks what Director Wolf is saying is that the instrumentation has confirmatory capabilities, but CS will be using it for the initial screening to direct the work of GC-MS. DAG Sean Lugg said then the answer to Chief Hughes' question would be that there would likely be very little legal work to be done; you could say it is like advanced ELISA, for lack of a better term. Chief Hughes then asked does that mean that down the road we will be looking at FTIR results matched up against GC-MS; are we heading in that direction. Director Wolf answered not by itself; however, we can enhance the capability with the addition of the Raman spectrometer and the FTIR has a lot of other capabilities should that be necessary in the future. Currently, he said, we just do the color test by itself and the addition of this instrumentation is a great thing for this laboratory.

- Chief Hughes asked if Director Wolf if he would share the barcoding system purchase information with police agencies as there are a number of agencies out there that are looking. Chief Hughes said if DFS gets a system here, we would appreciate your making us aware of what it is. He noted that pending the statewide barcoding system initiative, it would make the transition easier. Chief Hughes said that as far as small agencies, such as his, are concerned, we could at least if on a state contract, make purchasing a lot more attractive. Director Wolf responded that we already have a system with 8 devices that we purchased previously and we need to make sure that it is able to be integrated and uploaded into FLIMS. We are going to continue to maintain the drug unit's swipe-lock technology which memorializes electronically the chain of custody. Director Wolf added that it is not costly for the purchase of the devices themselves. What we want, he said, is to make sure at the end of the day when we go statewide, that this system will be integrated into an overall system, as will New World with the State police and with others that already have barcoding systems in place. Chief Hughes said he would like to get with Director Wolf later to discuss this system in more detail.

- Director Wolf noted that there is one thing he did fail to mention. He reported that OMB has expressed a little concern about the monies being spent for outsourcing and that was explained from a fiscal perspective as detailed in the annual report that we have to do that outsourcing right now and we are carefully scrutinizing the monies being spent. Director Wolf said when you look at the analysis, we are talking almost a dime on the dollar to process cases here internally. He continued that if we should hire additional people versus outsourcing those cases, from operational and logistical perspective, it is a tremendous cost savings and fiscally it makes a lot of sense - makes good business sense - to actually do the testing here at this laboratory. He recalled that Chief Hughes and Lisa Schwind had mentioned before where are we going to put all of these people. We entertained that in the interim we would consider having shifts come in here and do off-shifts just so we could use the existing space, hopefully with additional instrumentation, be able to process the drug cases.
- Lisa Schwind said she has a question concerning pathology and the N.A.M.E. accreditation. She said Director Wolf indicated that the accreditation is good until January 2019 but that is not that far off. She said we are not going to have a new building by then; it would be a miracle if that happened. However, she said, Director Wolf spoke about moving somewhere else. Ms. Schwind asked where they would move. Director Wolf said this is incumbent upon the Commission and Governor's office to make that decision. If it is decided that the M.E. unit and laboratories should remain together, we do have options. As we discussed with the legislators, said Director Wolf, there are existing spaces that could be retrofitted. He said there is space available right now – in fact, it is State space - and this could be where it happens if there were money and support to do it. Director Wolf continued that the vacant property we looked at would cut that timeline down and it would be a great space – more centrally located for us to be able to accommodate our customer needs, as well as the M.E. office, and there is room to grow. He said there are positive options available where we wouldn't have to start from ground zero. He agreed with Ms. Schwind that she is right that finding actual land and then going

forward with an architectural study, would create an almost impossible timeline to meet. Yes, said Ms. Schwind, 2019 sounds like it is far off, but it really is not.

- Anita Symonds asked Director Wolf if it were the 14th and 15th of June for the Toxicology laboratory certification and when did he think DFS would receive a response. Johna Esposito answered that those dates are correct and thinks it would be a couple of months before a response would be received. The ABFT audit will be similar to ACLD, only smaller. Ms. Symonds remarked that that this certification has not been done in Delaware before, is that correct. Secretary Landgraf said, yes, that is correct and that is why Chief Hughes said it was a really big deal.
- With no further questions for Director Wolf, Secretary Landgraf turned the meeting over to Dr. Watson for an update on the Standards & Certifications Advisory Committee.

5. Standards & Certifications Advisory Committee

- Dr. Watson stated the committee met in March and at this meeting we redefined our goals for 2016 as follows: to review staff training, certifications and professional development; and to devise recommendations for training and professional development for staff.
- Dr. Watson reported the Committee has two new committee members: Jamie Armstrong, from the DNA Unit, and David Mangler, who is the Director of the Division of Professional Regulations. She said we welcome their addition to the Committee and look forward to working with them.
- Dr. Watson noted that Mrs. Esposito did a wonderful job in providing the committee with documentation of current training activities and requirements for DFS staff members. Based on this information, as well as the retention information on turnover rate, she said, we will be developing our proposal. Dr. Watson said the main reason for that is to increase the qualifications of

our hires, to help retain them, and to incentivize them to seek additional training and/or certifications. She noted if she understands correctly, current information says that it does not require that DFS staff members be certified, but in certain disciplines, it is required to maintain a certification. We want to devise and propose a way of incentivizing these individuals to not only obtaining, but retaining, the certifications. We believe this will make DFS a stronger unit in our State and more competitive in comparison with surrounding states. Dr. Watson stated that is our goal and we hope to have our proposal ready for the Commission's June meeting. She noted that there will be \$\$\$ attached to it indicating how much it will cost for internal and/or external professional development activities for the DFS staff. Dr. Watson said if we get the staff invested in what is being done here - if DFS can do that – once they recruit them and then invest in them, they will retain the employees for more than 6 months and that will build the unit and reduce turnover rates.

- Secretary Landgraf said then we will see the committee's recommendations to the Commission in June, and Dr. Watson, said yes, that is their goal. Secretary Landgraf said she knows we all struggle across all departments with this whole issue and even tuition reimbursement issues relative to those difficult positions to fill, based on profession. She said she is also having some significant issues relative to R.N.'s for Delaware's Psychiatric Center, as well as some other professional educational positions. Secretary Landgraf said she knows that there have been some issues across all departments in this arena and OMB plays a very critical role, from an HR perspective. Again, she said, getting back to a resourcing perspective, she thinks we need to also strategize relative to that in making recommendations because you may get full support of this Commission, you may get the full support of others along the way, but it's an overall issue, and if there is any way, when you are putting together your recommendations, it is suggested the committee include its recommendations to OMB on the relativity to the market and the impact from a market perspective. Secretary Landgraf said

DFS is fertile ground for professionals and many times cultivates those professionals and they go elsewhere; like you said, Dr. Watson, in little as a 6-month period. We then must again incur the cost of recruitment, training, and experience the disruption in the workforce - it would almost be like a cost benefit analysis in this arena. Secretary Landgraf said she doesn't mean to give the committee more work, but there are a lot of other things we have to incorporate relative to making recommendations. Dr. Watson said we will attempt to make our proposal as cost-effective as possible.

- COO Rebecca Walker has discussed with both Dr. Watson and Johna Esposito regarding what we are doing because we are strapped budget-wise and going to science conferences are much more expensive than traditional business conferences. Therefore, she said, when a conference comes up which involves an employee's particular competency, when they return, they are required to give a one-hour presentation to the unit. She said it shows OMB there is a cost benefit to attending that conference. Chief Hughes mentioned that the State receives a \$65,000 Coverdale grant and it is spread out throughout Delaware, but it is on the non-competitive part of the grant. He said he has a meeting with the Criminal Justice Council next week and he will ask about the competitive part for funding around training. COO Walker responded that would be fantastic and it would be a big help to find any financing for this important part for our team's competitiveness.
- Secretary Landgraf asked if there were any more question/comments for Dr. Watson, and hearing none, she then moved the meeting forward to Major Evans for an update on the Strategic Planning Advisory Committee.

6. Strategic Planning Advisory Committee

- Major Evans reported that the committee last met on April 6th and we welcomed DAG Sean Lugg. Major Evans explained that he not only replaced Kathleen Jennings on the Commission, but he also agreed to assist us and sit on our committee and we thank him. During this meeting, we discussed the objectives that we've met to-date,

mainly #1 and #2, which was the evaluation of the current facility and also establishing a synergy between different forensic disciplines. We think we have satisfied those objectives and they are included in our report, which is now part of the 2015 Annual Report. Most notably in the report, he said, was our recommendation to the commission to request funding for a feasibility study and architectural study. Major Evans said he thinks that it is absolutely critical and believes that is a thought shared among Commission members. We also discussed our path forward – where have we been and where are we going now. He said we know that the funding wasn't in the recommended budget and that we did not get the financial support at JFC. Major Evans said he thinks that our last chance may be in mark-up. but thinks we all agree that funding is critical in moving forward.

- Major Evans said the committee looked at the remaining six action items and discussed them and then tasked them out to the subject matter experts who were sitting around the table. He briefly reviewed the remaining key items:
 - 1) Statewide Barcoding: Major Evans said he attended a meeting back in February, with DTI and DELJIS. DAG Lisa Morris and Director Wolf attended as well. Major Evans said he had heard DFS was starting its own barcoding system and wants to stress that it is critical that whatever system DFS comes up with, that it will be compatible with the statewide system. Ideally, he said our thought process from the beginning has been when evidence is collected from the scene, it is processed all the way through to the courts and into the Prothonotary office - all the while being tracked with one barcode; that is where we would like to find ourselves at the end of this journey. Major Evans noted that we are not looking at New World so much as an avenue to follow, but at DELJIS. When we consider what platform we have in the State that is accessible by all law enforcement, he said, the answer is DELJIS. We think that would make the most sense, both in terms of dollars and feasibility, to somehow use DELJIS to create this barcoding system. There was a meeting held a month or so ago, we married up DTI and DELJIS (Peggy Bell, mainly) and they were going to go back and way try to figure a possible way of coming up with some system where we could use a platform that is successfully used by all state agencies, not only the police agencies, but the Fire Marshall,

DNREC, the prosecutor's office and hopefully the courts will be able to access down the line. DAG Lisa Morris noted that regarding court access to DELJIS, she spoke with Peggy Bell after the DTI meeting and they are trying to come up with a price and a timeline and is hoping to get back to us pretty soon. DAG Morris said there was some type of issue within LEISS that needs fixing currently so hopefully by next Commission meeting, or sooner, their proposal will be out and we will know what they can do and what the bill will be. DAG Morris said that regardless, we are obviously going to need the funding whatever they come up with; and we did give her the specifications that were given us regarding the scanners, the printers, etc. DAG Morris said that Peggy did find them cheaper on the open market but we don't know whether OMB would approve that type of purchase instead of going through E-marketplace, because it was about \$100,000 cheaper to purchase on the open market. Chief Hughes recalled that we did find funding through the E911 Board. DAG Morris, said yes, they did approve an expenditure of \$400,000 and approved for use with the vendor New World. She said whether or not they would approve that use with a different vendor, we do not know. Major Evans said he thinks that going through DELJIS to pursue the barcoding system seems to be the most promising.

- 2) Codifying the Relationship between DFS and Public Health: Major Evans said it is his understanding that there are several MOU's and MOA's in place with Public Health where we share drug statistics. He said from a fusion center standpoint, the DIAC shares information with Public Health, not heroin related deaths, but in regard to heroin-related overdoses. We are heat mapping where we are seeing the increase of heroin usage in the state, packaging information, names on the packages; these things we do share with Public Health at this time.
- Chief Hughes said that on the way to this meeting today, he and his colleague were discussing that there have been quite a few deaths recently in Cumberland County, MD, and that is really in our backyard. He said with Delaware being such a small state, are we tracking or looking at statistics from other states. At some point, said Secretary Landgraf, I wanted to take a

moment to tell the Commission why Dan Maas is here and the work he does. He is an epidemiologist and is a public health specialist and we are very grateful the Federal government landed him at DHSS. Secretary Landgraf said we will have Dan give us a quick overview today and then we wanted to invite him and his colleagues to the June meeting to talk about the high intensity of drug trafficking that is going on. Secretary Landgraf said we do recognize that we are not confined to our own borders regarding that and we can focus on this in June when we can have other specialists with us who can give an indication of the work that is occurring across state borders.

Major Evans continued that he also understands there was a discussion concerning analyzing blood samples in the state for DUIs. We have had this discussion internally with DSP about it and Major Evans agrees that the state is missing an opportunity to get information on our drivers who are under the Influence of either prescribed drugs or illegal drugs. He said the way it works now is that if the alcohol is over the legal limit, it is not tested for drugs. He said someone may be legally intoxicated but they also may be on drugs. Major Evans thinks that pursuing bringing the DUI blood program from DSP to here at DFS goes in line with testing all blood for drugs. It will require more equipment and more space, but will also help give us a better picture of what our look is in the driving community.

- 3) Staff Retention/Pay Parity: Major Evans said they do not want to duplicate efforts on this action item with Dr. Watson's committee. Secretary Landgraf noted perhaps it would strengthen this effort and although researching the same subject, it would be from a different angle. Major Evans said a couple of people on the committee are gathering data on pay parity in terms of what a similar professional is making in the area compared to ours. Major Evans said that this action item is going to cost money. He said the committee also talked about maybe doing some type of salary leveling internally. Perhaps, DFS can share with OMB that they are experiencing a lot of turnover and, if DFS can argue that, they may be successful in bringing the salary level up closer to mid-range. Major Evans said then in line

with training and certification of employees, maybe some type of ladder progression within the different positions in DFS (i.e., Lab Tech I to II to III) and that would be based on their certification and on-going training. He continued that to further incentivizing employees, perhaps if they complete on-going training and certification and maintain going year to year, they could start the progression and also have a salary increase as they go up the ladder. Major Evans added that Dr. Lehman has provided the committee with several websites which will be reviewed to compare salaries across the country of similar positions within DFS.

- 4) Legislation for DNA Sample Collection/Retention: Major Evans believes that the proposed legislation regarding the collection of DNA samples from those not only convicted, but those arrested of certain felony offenses, is still tabled. COO Rebecca Walker agreed but reported that another bill concerning DNA is now back to the House; it was in Senate committee, then passed through committee and is now on the way to the Senate floor. COO Walker said it will have a good impact on our DNA shop because it will encompass all samples of DNA, from whatever place, it doesn't limit from where we get the DNA samples. It has also been noted that the statute needs some clean-up as it still references OCME and the Chief Medical Examiner multiple times. DAG Morris agreed and said that the DNA sentence defines biological sample as either blood or buckle swabs, but today there are so many ways DNA is collected and tested that we wanted to have that definition broadened to cover the scope of any DNA that is collected.
- 5) Evidence Destruction: Major Evans said he has asked Lisa Schwind and DAG Sean Lugg to work together on this. He said Lisa will develop a workable plan moving forward with the destruction statute and Sean will overlay it with current retention schedules that exist today in the state. Currently, said Major Evans, this is the plan for going forward in terms of an evidence destruction statute for Delaware.
- 6) Internships: Major Evans said that Dr. Lehman reported that he currently has 20 students who are in the pipeline; there is a process now in order to become an intern, which also involves a background check. He said that Jessica Smith

reported she has two interns who have already been here and one more is scheduled for internship during the summer. He noted that Delaware State needs to hook up with Dr. Lehman. Secretary Landgraf said that can happen now there is a vehicle for Delaware State to do so and it complements the succession planning process as well.

- In closing, said Major Evans, the committee cannot stress enough the need for funding in order to move forward with the feasibility and architectural studies. He said our charge was to do what is right - what needs to be done – in order to lead the Division of Forensic Science into the future, regardless of cost. But, said Major Evans, if we don't have a building to put them in, we are nowhere and that worries me. He said there is going to be a change in administration and he does not want this pushed on the back shelf. Secretary Landgraf said we might want to think creatively how to find funding for the \$350,000 feasibility/architectural study. She said especially if we had multiple funding sources contributing (i.e. grant makers, foundations). They might want to contribute toward a feasibility study as it is not an on-going expenditure. It could support part of it and then some funding from OMB. She said that might be more viable.
- Secretary Landgraf extended her compliments to Major Evans and Dr. Watson as she is very aware that a lot of work goes on in between our meeting times. She appreciates their level of engagement and that it is a lot of work on top of their everyday job. Secretary Landgraf expressed that the Commission appreciates the work from each member of these committees and we thank you.
- Secretary Landgraf asked if there were any further questions/comments for either Major Evans or Dr. Watson. Hearing none, she moved the meeting forward to DAG Lisa Morris for a report on policy/retention for the recording of the minutes and the report on CARs.

7. Recording of Minutes-Policy and Retention

- DAG Lisa Morris said we are using a recorder today in an attempt to see how it works picking up all of our voices. She said that Pat McIlvaine is still here taking the minutes

and hopefully this recorder will assist her to do so. DAG Morris said Pat will let us know how it works and then, more than likely, she will not have to attend these meetings. DAG Morris said our policy and retention will be: a) minutes will be recorded, b) transcribed, c) sent out for review, d) approved, and then e) the recording may be deleted.

8. CAR's (Corrective Action Reports)

- DAG Lisa Morris reported that DFS incurred 10 CAR's since our last meeting. She said Johna Esposito, the interim Quality Assurance Manager, has been asked to come to this meeting as 7 of the 10 CARs relate to the 7 ASCLD findings. DAG Morris asked Ms. Esposito to prepare something for members to go through to show the ASCLD finding and the corresponding remediation for that finding.
- DAG Morris explained that the other three CARs are aside from the audit. She said the three are in DNA; of which one is a Class II and two are a Class III; there were no Class I's, which is the most egregious. A Class III CAR is administrative in nature. In the first Class III CAR, the DNA report was released without statistics. In that case, the statistics could have been provided and so the report was redone to provide those statistics. The other Class III CAR was that there was a typographical error on a proficiency test and that was corrected. DAG Morris explained that Class II CARs are those where the issue is not persistent and unlikely to reoccur. The Class II CAR involved a Forensic Evidence Specialist (FES) regarding evidence intake and will be dealt with as a personnel issue with their supervisor. Because it dealt with DNA evidence, the CAR was written by DNA. Essentially, the DNA evidence number was transposed; it was correct on the item but then transposed by the FES and given to Wilmington police. The process is that when something is released, the item number is checked both by the FES and the officer who has come to retrieve the evidence. Both persons, by virtue of human error, failed to notice the number was different. The discrepancy was discovered and evidence returned by the police agency and the Chain of Custody was updated. DAG Morris said another remediation to this CAR will be when we have the barcoding system. When scanned, it will automatically recognize

a problem even if it is one digit off. Lisa Schwind asked about the error in the proficiency report and how did it get discovered. DAG Morris said it was discovered by CTS when they were looking at it, but it was a typographical error in the results that were reported, not an actual error in the test itself. DAG Morris said they just asked that a note be made to the file. DAG Morris then turned the meeting over to Johna Esposito for the explanation of the CARs in conjunction with the ASCLD inspection.

- Johna Esposito, DFS Interim Quality Assurance Manager, explained that the accreditation process began last February with the ASCLD auditor; he already had received our Quality Assurance Manual, our standards, policies and procedures. Johna said she had already gone over these documents with him and we had four additional auditors, a total of 5, here for three days, making sure we followed our own procedures by observing, interviewing and making sure we followed ISO 17025 and also we follow supplemental standards ISO's 300-400 requirements and additional standards for DNA She then reviewed her summary as follows:

ASCLD Finding #	ISO Requirement	Finding	Remediation
1	Documents must be periodically reviewed and revised.	During annual document review, SOPs in CS were not updated and, instead, memos that had been created to supplement the SOPs were still being used.	SOPs have been updated to incorporate the changes outlined in the memos. (2)
2	Case records must include enough information to allow a competent reviewer to evaluate what was done and interpret the data.	The case record for Fire Debris did not include sufficient data to support the conclusions. (Note that the data was produced and used in determining the conclusion but just wasn't routinely being included in the case record.)	The procedures within Fire Debris have been updated to require this data be included in the case record. (2)
3	Results must be reported clearly.	It was not clear (to the assessor) that the weight being reported on the CS reports was a weight of a subset of items, rather than of the entire population.	An estimated net weight (which was always available to the AGs on the accompanying worksheets in the discovery packet) is now being included in the actual report and a clarification of the number of items tested (in parentheses) is being added in the results section. (2)

4	When an amended report is needed, the new report should contain a reference to the original.	Amended reports did not clearly reference the report being replaced.	Amended reports will now refer to any previous reports by date. (Note that we ended up with two CARs for this, one for DFS (3) and one for CS (2), but they are very similar.)
6	Reports must include a statement on the estimated uncertainty of measurement when reporting against a limit.	CS was not including any uncertainty of measurement on their reports	CS will start adding, along with the newly-added "estimated net weight," an uncertainty of measurement for the weight number. (2)
5 and 7 (These 2 findings were addressed by one CAR.)	Labs must have a schedule to review Uncertainty of Measurement calculations and must include U of M on reports when reporting against a limit.	TOX did not have a schedule to review U of M calculations. While TOX was reporting U of M for all DUI cases where EtOH was between 0.07 and 0.09, it was not being reported for any other concentrations.	TOX will start reviewing U of M calculations on a yearly basis and will begin reporting U of M for all DUI Ethanol cases. (3)

- DAG Lugg asked what the numbers in parentheses after each remediation statement meant. Ms. Esposito replied that the number reflects the Class number of the CAR which was determined internally by each unit. He then asked if these were proposed remediations or are they being done now. Ms. Esposito responded that some are being done now but not all. We do have to have them all addressed by the first week in May. DAG Lugg said some of these touch on concerned areas and thinks that the auditors are aware of Delaware law to a point, but not fully. He said it appears to him that Findings 5-6-7 and actually 3, have a partial disregard for existent Delaware laws that say these are things not to be considered and now we are injecting them into reports. DAG Lugg said he thinks he talked to one of the reviewers back in 2012 when Jessica Smith was going through the last audit and here it is again. He asked Johna if she could speak to that at all. Johna responded, yes, that she had talked with auditor, Laurel Farrell, and spoke about the statute and she said even if we don't consider the Uncertainty of Measurement number - it is what it is – unless the law specifically states, you have to report Uncertainty of Measurement. They encounter this argument

almost everywhere they go. The ASCLD auditors think that Uncertainty of Measurement is scientifically important and so they are very much pushing the science side of it. DAG Morris stated that she spoke with DAG Joe Grubb and Danielle, to see if there was anything in Delaware law, statutes or cases, which would prevent us from showing it and could be presented to ASCLD. However, she said, we could not find anything that said it can't be reported. We are thinking about reaching out to our legislative committee at DOJ and see if they could possibly address this. We are waiting for a response on whether or not they would be interested in sponsoring the legislation. DAG Lugg wondered what was driving ASCLD on this issue. Director Wolf said we found that if you look beyond ASCLD and look at ISO 17025, and a particular clause applies to ANAB as well; it is currently a requirement of all accrediting bodies and we must adhere to it. He said if we do not, we will not receive accreditation. DAG Morris asked if anyone had any questions on the audit or CARs and there were none. Secretary Landgraf thanked Johna Esposito for her user-friendly summary sheet as it was very helpful.

9. Commission Members Open Discussion

- Secretary Landgraf asked if anyone had any other questions/concerns.
 - Dr. Watson announced there is a position open at Delaware State University for Director of College of Mathematics, Natural Sciences and Technology and that she is no longer in that position. She said if Commission members know of anyone with a science background, please let her know. This person will be in a position to put the DNA director program through accreditation. Dr. Watson advised that the posting will close in the next couple of weeks.
 - For the record, said Chief Hughes, he'd like to welcome Tom Tyndall, Sergeant/ Detective from the Georgetown Police Department. He is attending our meeting preparing for a presentation. Chief Hughes said, however, that Tom will be acting as the "customer" today.
 - Secretary Landgraf said she would like our guest, Dan Maas, to give us a quick preview of what is going on with high intensity drug trafficking and an overview of

his role here in the State of Delaware and how this commission, as well as this division, will play a part. Mr. Maas thanked Secretary Landgraf for having him attend this meeting today. He said he is working on a regional approach to gathering data on heroin and looking at this information with his counterpart - the intelligence office in DIAC. We are using a platform working on both the public health side and law enforcement side of the issues

- Dan Maas said he is also coordinating with DHSS DSAMH between entities here in Delaware. There is very good data here and we hope to be able to get some help in facilitating data transfer. He said Delaware is also very important as a sample population with a lot of things going on. Chief Hughes asked if any of this work is going on beyond New Castle County; will it go to Kent and into Sussex Counties. Mr. Maas responded that he working here to establish data sharing of drug trafficking on a statewide basis, not just the I-95 corridor. Secretary Landgraf said how this all came about is that Director Botticelli from the White House actually came in with Christiana Care Health Systems announcing this additional approach. They are investing with public health professionals, along with law enforcement intelligence and combine in a more meaningful way to try to get ahead of the curve whenever possible. She said that Jerry Daley, Dan's supervisor out of Philadelphia, gave a presentation to her DHSS group and she thought it would be great to have him come before the Commission. He does an excellent presentation showing countrywide how that strategy is to advance and bring forth a public health solution to this public health epidemic. We will bring him back in June, it is about a 20-minute presentation.
- Director Jill Fredel said she wants to applaud the Division of Forensic Science. Their statistical report was very good. She said we all know how totally dangerous fentanyl and heroin addiction is as a whole. This initiative will give us all an understanding and we will be on common ground – real time – and be able to shift resources to those areas in need. She thinks with us all working together, we can save more lives. Chief Hughes said that we in law enforcement need to realize it is a health problem and need to supply what benefits all of us. Secretary Landgraf agreed and said that years ago you knew where drugs were in certain places,

however, today any place in Delaware is a hot spot and you know it has become epidemic and it is very sad when you realize Delaware is not unique in this area. She said that it would be great when this level of research would not only take care of the problem here in Delaware, but then use our findings to be spread across the country.

- Secretary Landgraf said we have a pretty full agenda for our next meeting: the presentation by Dan and Jerry; the sub-committees work and recommendations; information that Chief Hughes and I will bring back after sitting down with the Legislative representatives, and Secretary Mosley's briefing with the Governor on the DFS 2015 Annual Report.

10. Adjourn

- Chief Hughes made a motion to adjourn the meeting and Anita Symonds seconded the motion, which was unanimously approved by voting members of the Commission present.
- The meeting adjourned at 11:55 a.m.

Next Meeting: Monday, June 13, 2016

10:00 am – 12:00 am

Location: DFS, 200 South Adams Street, Wilmington, DE

1st Floor Conference Room